

**ASSOCIATED PETROLEUM TERMINALS (IMMINGHAM) LIMITED AND HUMBER OIL TERMINALS
TRUSTEE LIMITED**

**PROPOSED VIKING CCS CARBON DIOXIDE PIPELINE
DEVELOPMENT CONSENT ORDER**

WRITTEN REPRESENTATIONS

1. Introduction

- 1.1 These are the Written Representations (“**WRs**”) for and on behalf of Associated Petroleum Terminals (Immingham) Limited (“**APT**”) and Humber Oil Terminals Trustee Limited (“**HOTT**”) (collectively referred to in the WRs as “**the IOT Operators**”) in respect of the application (“**the Application**”) made by Chrysaor Production (UK) Limited (“**the Applicant**”) for The Viking CCC Carbon Dioxide Pipeline Development Consent Order (“**the Proposed Order**”) to authorise the construction, operation and decommissioning of a pipeline (“**Proposed Development**”) that will transport captured carbon dioxide from Immingham to the Theddlethorpe Facility, together with associated development (“**the Scheme**”).
- 1.2 The Application for the Proposed Order was submitted and is being promoted by the Applicant and has been allocated Planning Inspectorate reference EN070008.
- 1.3 These WRs should be read together with and alongside the Relevant Representations (“**RRs**”) of the IOT Operators relating to the Application dated 15th January 2024.
- 1.4 In addition to expanding upon the RR, these WRs also:
- (a) Comment on the Applicant’s request to make changes to the Application, received on 19 March 2024 (“**Change Request**”); and
 - (b) Contain the notification by the IOT Operators that they wish to speak at a second Compulsory Acquisition Hearing (“**CAH 2**”) and (as necessary) an Issue Specific Hearing (“**ISH**”) to consider the terms of the Proposed Order.

2. Summary

- 2.1 The IOT Operators continue to support the principle and objectives of the Scheme. They welcome the Change Request and the Applicant’s response to its proposal to start the necessary technical discussions on the interface between the Scheme and its operations both during the construction and operational phase for the Scheme to include considering the proposed limits of deviation for the Proposed Developments and its interrelationship with the IOT Operators wayleave that runs across the proposed pipeline corridor for the Proposed Development.
- 2.2 A draft set of Protective Provisions (“**PPs**”) has also now been prepared by the Applicant and shared with the IOT Operators. These are being reviewed and considered by the IOT Operators and will need to be iterated alongside progressing the necessary technical discussions which started on 23rd April.

¹ Which term includes all documents submitted with the application.

- 2.3 While it is sincerely hoped that agreement can be reached on the above matters during the course of the Examination, to protect its position, the IOT Operations maintain the following grounds of objection to the Proposed Order at the current time relating (in summary) to the following matters:
- (a) The details of the proposed permanent acquisition of the subsurface in Order Plot 1/74 and its interrelationship with the HOTT pipelines.
 - (b) The current absence of Protective Provisions ('PPs') to protect and safeguard the IOT Operators interests and operations.
 - (c) The interface of the IOT Operators interests and operations with the construction and operational impacts of the Scheme and the need to robustly consider, address and co-ordinate such matters.

3. Introduction and Background

- 3.1 APT is a limited company (company number 00564394) whose registered office is Queens Road, Immingham, Grimsby, North East Lincolnshire, DN40 2PN. HOTT is a limited company (company number 008794993) whose registered office is Queens Road, Immingham, Grimsby, North East Lincolnshire, DN40 2PN.
- 3.2 HOTT is the licensee from Associated British Ports ("ABP") of the Immingham Oil Terminal Jetty ("IOT") and lessee (from ABP) of the associated oil terminal and tank farm ("Oil Depot"). APT operates IOT and the Oil Depot on behalf of HOTT. HOTT and APT are referred to together in these WRs as "**the IOT Operators**". The IOT Operators are joint venture companies owned equally by Phillips 66 Limited ("P66") and Prax Lindsey Oil Refinery Limited ("Prax"). P66 is the owner of the Humber Refinery ("HR") and Prax is the owner of the Lindsey Oil Refinery ("LOR").
- 3.3 The primary activity of the IOT Operators is the operation of marine terminals on behalf of P66 and Prax. They are also responsible for the operation of much of the pipeline system in the pipeline corridor between the IOT, the Oil Depot, the HR, and the LOR (collectively referred to as "**the Refineries**"). The pipeline systems run through the Common Pumping station ("CPS") that is used to route imports and exports between the IOT, Oil Depot, and the Refineries and to boost transfer rates of hydrocarbon products from the Refineries to ships via the IOT for exports.
- 3.4 The IOT, Oil Depot and CPS (including the pipelines on the pipeline corridor) were opened in 1969 and built to serve the oil refineries that had been built near west of the Immingham Dock site, namely the Continental Oil Refinery (now the HR) and the LOR. The IOT, Oil Depot, CPS and the pipeline corridor all continue to be a critical aspect of the operation of the Refineries. The activity of the IOT Operators is almost entirely in response to the requirements of P66 and Prax for marine movements of feedstock and products to and from the Refineries.
- 3.5 The principle aim of the IOT Operators is to maximise the efficiency with which its facilities (including CPS and the pipeline corridor) are used whilst having proper regard for safety and the environment.
- 3.6 The HR is at the heart of the Humber region's economy providing highly skilled and high value roles for 770 employees and 395 contractors, this rises to around 600 during turnarounds. The HR is one of the most complex and sophisticated refineries in Europe. It has an expansive range of upgrading units that differentiate it from its peers. For example, the HR is the only at-scale producer of Sustainable Aviation (SAF) within the UK, with supply contracts which include British Airways.
- 3.7 The HR is a nationally significant piece of infrastructure, providing around 15% of UK road fuel demand. The HR is also Europe's only producer of specialty petroleum coke. This high-value

product has traditionally been used as the anode with electric arc furnaces to recycle steel and this remains a growing market. However, specialty petroleum coke also represents a precursor material for synthetic graphite, which is classified by the EU as a Critical Mineral given its usage within electric vehicle (EV) and consumer electronic (CE) batteries. The HR is an industrial-scale supplier into the rapidly expanding global EV and CE markets.

- 3.8 The LOR is owned by Prax. The LOR extends to over 500 acres and incorporates some of the most advanced refining and conversion processes in Europe and has the capacity to process up to 113,000 barrels of oil a day. The LOR is highly valuable to the region's economy and employs approximately 400 staff and another 400 contractors. The greater part of the LOR's output is petrol and diesel for road vehicles, with the remaining proportion being speciality products such as fuel oil, bitumen, kerosene and aviation fuel.
- 3.9 The IOT is essential to the operations of the Refineries, as crude oil arrives by tanker at the IOT before being transferred to the Refineries by pipeline. Approximately 40% of the HR's production and 33% of the LOR's production is exported and the IOT is essential to that export capabilities of the refineries. Products from the Refineries are transported via pipeline to the IOT and can then be transported onwards via tanker.
- 3.10 The CPS is located just southeast of the P66 South Tank Farm area of the HR and is accessed off the Humber Road (A160) close to the junction with Manby Road.
- 3.11 The CPS facility has two main functions. The first main function is provision of routing pipelines in the pipeline corridor from the IOT to the Refineries or from the Refineries to IOT or the Oil Depot. There is also provision to transfer product to the Exolum terminal on the Eastern side of Immingham Dock. There are 7 HOTT pipelines (within the pipeline corridor) varying from 18" to 36" that join CPS to the IOT with various take offs into the Oil Depot. These allow for crude imports from IOT to the Refineries and a number of distillate, motor spirit and fuels imports or exports between the Refineries, IOT and/ or the Oil Depot. The second main function of CPS is to provide pumps for boosting product transfer rates between the Refineries and IOT. There are 4 booster pumps located within CPS for motor spirit, distillate, and fuel oil use.
- 3.12 CPS and the pipeline corridor are critical to the operation of IOT, the Oil Depot and the Refineries. The CPS facility allows for the refineries import of feedstocks and export of products and fuels for both the UK market and markets abroad.

4. Consideration

- 4.1 In summary, and as particularised in the RRs, the headline points of the IOT Operators position on the Application is as follows:
 - (a) The IOT Operators support the objectives and principle of the Scheme. The Humber area is the highest emitting region within the UK and very much stands to benefit from the deployment of technologies such as carbon capture and storage and lower carbon hydrogen to be facilitated, among other things, by the Scheme.
 - (b) Notwithstanding the in-principle support for the Scheme, the IOT Operators objected to the Proposed Order (as submitted), in summary, for the following 5 main reasons.
 - (i) First, the Application failed to properly assess and address the adverse effects on the IOT Operators interests and operations arising from the proposed permanent and temporary acquisition and use of land, and the construction and operation of the Scheme.

- (ii) Second, during the construction phase of the Scheme, the IOT Operators need to ensure that there is permanent vehicular access (for purposes including operational and emergency vehicles) to its wayleave that runs along the pipeline corridor.
- (iii) Third, and depending on the ultimate routing and precise location of the Pipeline Route and how close in proximity they will be to its pipelines, robust arrangements need to be put in place to continue to allow for and enable the full operation and use of the IOT Operators pipelines including the need to ensure that uninterrupted access is maintained and the ability to repair and maintain in an emergency without requiring the Applicant's permission in respect of any areas where the pipelines cross or otherwise interact.
- (iv) Fourth, the proposed temporary and permanent land take in the Proposed Order (for example in relation to the proposed Pipeline Route) exceeded that which is reasonably and proportionately required to carry out the Scheme;
- (v) Fifth, the Applicant had not incorporated into the Proposed Order and/or otherwise provided for proper mitigation of the Scheme's impacts on the IOT Operators nor sufficiently safeguarded the IOT Operators critically important interests and operations, among other things, through the inclusion of suitably worded PPs in the Proposed Order (see further below).

4.2 Following the lodging of the RRs, the IOT Operators are encouraged to note that the Applicant has submitted the Change Request which, in summary:

- (a) Reduces the Order Limits for works related to the Immingham Facility and associated accesses; and
- (b) Removes Pipeline Route Option 2² in section 1 of the Proposed Development.

4.3 Having reviewed the Change Request documentation, the IOT Operators are content that the Change Request satisfactorily addresses the substance of its objections insofar as they relate to Order Plots 1/22, 1/24, 1/33, 1/68, 1/69 and 1/70 (in particular ground 4 above) of the Proposed Order.

4.4 For the avoidance of doubt, the objections of the IOT Operators remain insofar as they relate to the details of the proposed permanent acquisition of the subsurface in Plot 1/74. Among other things, the IOT Operators remain concerned, in relation to the Proposed Order, as submitted at the proposed limits of deviation for the Proposed Development which, as drafted, seem to provide the Applicant with very wide flexibility and judgmental discretion as to the depth of the pipeline. One of the key issues that the IOT Operators want to robustly address in the technical discussions with the Applicant is the proposed location of the Proposed Development relative to the HOTT pipelines and their interface. In this regard, the IOT Operators want to fully understand the implications of the Scheme for its operations and the extent to which, if at all, the construction and operational phases of the Scheme will adversely impact on its operations and, if so, what mitigation measures can be put in place to preferably avoid or if not minimise such adverse effects. Points to bear in mind in terms of the interface between the Scheme and the operations include that the IOT Operators need the continuing ability, as may be required from time to time, (for example):

- (a) To dig down into the ground to out, for example, civil bases in for line pipe supports; and

² The proposal that the Proposed Development would go through the HR site, exiting between Houlton's Covert and Children's Avenue towards the south east.

- (b) To retain the unfettered access and passage of the cables running in ducts at approximately 200 to 300mm below surface in areas.
- 4.5 Concerning the first, second and third grounds of objection summarised above, the IOT Operators welcome the response (albeit somewhat belated) from the Applicant to its repeated request for the necessary technical discussions to start to consider, among other things, the interface between the Scheme and the interests and operations of the IOT Operators.
- 4.6 Whether within the scope of the PPs and/or in a voluntary contractual agreement, the IOT Operators would be seeking, among other things, measures such as the establishment and operation of a Working and Programme Group to consider, inter alia:
 - (a) The construction and operational interface issues;
 - (b) To programme and phase the Scheme works to avoid or minimise any disruption to its operations and interests;
 - (c) To enable the programme and phasing of delivery and construction of the Proposed Development to be reviewed and updated from time to time between the parties.
 - (d) To enable, as necessary, copies of construction issue drawings and as built records etc to be provided to the IOT Operators.
 - (e) To enable a forum for the sharing of information and discussion and resolution of any interface issues.
- 4.7 As to the fifth ground of objection concerning the current absence of any PPs in the Proposed Order in relation to the IOT Operators interests and operations, since the RRs have been lodged, the Applicant has now recently shared a first draft of a set of PPs with the IOT Operators for comment. These are currently being internally reviewed and assessed and will need to be refined and developed as the necessary technical discussions take place with the Applicant's team.
- 4.8 In summary, the IOT Operators are seeking the following main safeguards in the PPs with such measures being necessary to adequately protect its high value operations and interests, namely:
 - (a) Plans and sections of the proposed works to cross its operational land must be submitted to the IOT Operators;
 - (b) No works which may have an impact on the operation, maintenance or abandonment of IOT Operators pipelines or access to them may commence until those plans and sections are approved; provided that
 - (i) No approval may be unreasonably withheld or delayed; and
 - (ii) The IOT Operators may impose such reasonable requirements on the Applicant as may be required for the continuing safety and operational viability of the pipelines and the IOT's requirement to have uninterrupted access to them at all times.
 - (c) An ability for the IOT Operators to withhold its authorisation for any crossing works where it can reasonably demonstrate that the Scheme would significantly adversely affect the safety of its pipeline;
 - (d) Provisions for the resolution of any differences between the Applicant and the IOT Operators by reference to an expert;

- (e) A minimum period of 28 days' notice of the commencement of works to be provided to the IOT Operators so that an engineer can observe the relevant works being carried out;
- (f) Minimum clearance required between the existing pipelines and the Scheme;
- (g) Monitoring of the IOT Operators pipelines during the carrying out of works in their vicinity;
- (h) Provisions for the immediate cessation of works and evacuation of personnel in the event of any of the IOT Operators pipeline assets being damaged;
- (i) In carrying out any works the Applicant is to comply with relevant regulations concerning health and safety;
- (j) Restrictions on the exercise of the powers in the Proposed Order so as to minimise impacts on the operation of the IOT Operators existing pipeline corridor;
- (k) A requirement for the Applicant to obtain appropriate insurance (and provide the IOT Operators with evidence of such) before carrying out works which may affect its pipeline assets;
- (l) The payment of the IOT Operators' reasonable costs incurred in relation to the supervision or other engagement with the Applicant in respect of any crossing works;
- (m) The provision of an indemnity to the IOT Operators in respect of all damages, expenses, consequential loss and damages arising from crossing works; and
- (n) A series of further measures requiring notice in the event of certain circumstances under the operation of the remainder of the Proposed Order.

4.9 The draft PPs are currently being worked up and iterated with the Applicant. It is sincerely hoped that agreement can be reached on a final agreed form set of PPs during the Examination period whereupon the IOT Operators would be requesting that the Applicant make a further change request to the Examining Authority to seek to include these PPs in the Proposed Order as a new bespoke part of what is currently Schedule 9 of the Proposed Order.

5. Update on Negotiations

5.1 Throughout the process, the IOT Operators have been ready, willing, and able to proactively engage with the Applicant in relation to the Scheme. The Applicant has now belatedly responded to the request for technical discussions to commence which is welcomed by the IOT Operators and an introductory meeting took place on 23 April. It is hoped that through these necessary technical discussions, a robust set of safeguards, mitigation measures, and PPs will be agreed upon to satisfactorily address the concerns of the IOT Operators as to the interface of the Scheme with its critically important interests and operations.

5.2 However, as at the date of the submission of these WR's, it remains the case that no agreement on such matters has been reached with the Applicant. As such, the IOT Operators maintain its objections (originally lodged with the RRs) insofar as they relate to Order Plot 1/74 of the Proposed Order and unless and until a voluntary agreement has been entered into, a robust set of PPs agreed, and the other residual concerns outlined in the RRs and these WRs have been thoroughly and satisfactorily addressed.

5.3 It is the intention of the IOT Operators to continue to work closely and collaboratively with the Applicant during the examination period to seek to address and resolve these remaining issues in a timely manner.

6. Notification by the IOT Operators that they wish to speak at CAH 2 and future ISHs

6.1 For the reasons set out above, and in the current absence of any voluntary agreement and/or a set of agreed PPs having been agreed, the IOT Operators would wish to attend and speak at:

- (a) a CAH 2 hearing in respect of the proposed permanent acquisition of subsurface in Order Plot 1/74; and
- (b) An ISH hearing (if required) to consider the terms of the Proposed Order and, in particular, the limits of deviation and details of the proposed set of PPs.

7. Conclusion

7.1 The IOT Operators hereby reserve the right to expand on the points made in these WRs in response to how the Applicant's case is further promoted through the Examination, and in response to any further questions from and Applicant responses to the ExA.

7.2 The IOT Operators further continue to seek its costs of engaging in the Proposed Order process, in accordance with the Secretary of State's Guidance 'Awards of costs: examinations of applications for development consent orders', which provides that (page 13, Part D, paragraph 2): *"Where the objections to a compulsory acquisition request have neither been disregarded by the Examining Authority nor withdrawn before the decision of the Secretary of State on a development consent application and the objectors have been successful in objecting to the compulsory acquisition request, an award of costs will normally be made against the applicant for development consent and in favour of the objectors..."*

Town Legal LLP

On behalf of the IOT Operators

25 April 2024